IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1422 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GANPATSINH JINABHAI DODIA

Versus

LAGAL HEIRS OF DECD.SOMABHAI RAGHABHAI

Appearance:

MR PARTHIV B SHAH for Petitioner

MR NILESH A PANDYA for Respondents No. 1-1/8

CORAM : MR.JUSTICE J.R.VORA

Date of decision: 11/12/2001

ORAL JUDGEMENT

1. Rule. Service of rule is waived by learned Advocate Mr. Nilesh A Pandya for the respondents.

2. This Revision Application is directed against an order passed by the learned Extra Assistant Judge at

Baroda in Misc. Civil Appeal No. 87/96 on 9th day of November, 2001 by which the Appeal came to be partly allowed. The present petitioner field a Regular Civil Suit No. 2400/94 for permanent injunction, in which a temporary injunction vide Exh. 5 was sought for to the extent that the present respondents - originally defendants be restrained from obstructing the plaintiff in constructing the compound wall in the suit property which is open land. The defendants also filed an Application Exh. 40 and asked for contra temporary injunction. Learned Civil Judge (SD), Baroda, vide his order dated 28.2.1996 granted the application of the present petitioner - original plaintiff and was pleased to grant temporary injunction in favour of the plaintiff while Exh. 40 filed by the defendants was dismissed. On filing a Misc. Civil Appeal No. 87/96 by the original defendants - present respondents in the Court of learned District Judge at Baroda, Second Extra Asst. Judge, Baroda, vide his order dated 9th of November, 2001, partly allowed the Appeal and set aside both the orders passed by the Trial Judge below Applications Exh. 5 and 40, and the relief claimed by the defendants respondents herein vide Exh.40 was allowed and the plaintiff petitioner herein was directed not to make any kind of construction in disputed suit vada till the disposal of the suit on merits by the lower courts. Being aggrieved by the said order, this Revision Application is filed.

3. After hearing both the learned advocates, in the facts and circumstances of the case, both the parties are required to lead evidence in support of their contention and, therefore, the property which is involved in the litigation is required to be preserved as it is till the disposal of the suit. The disposal of the suit is required to be expedited and hence the following order is passed.

" Learned Civil Judge (SD), Baroda, in-charge of Regular Civil Suit No. 2400/94 is directed to expedite the hearing and disposal of the said Regular Civil Suit No. 2400/94 and dispose of the same within six months from the date of receipt of the writ of this Court or production of the certified copy of the order of this court. In the meanwhile, till the disposal of Regular Civil Suit No. 2400/94, both the parties to this litigation, shall maintain status quo as regards the subject matter of the suit i.e. the suit vada. The parties through their learned advocates make a statement that they shall cooperate with the Trial Court in expeditious

disposal of the Regular Civil Suit No. 2400/94. "

4. With this order, this Revision Application is disposed of. Rule is discharged. No costs.

(J.R. Vora, J.)

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